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Attorney for Defendant
KEITH ALLEN LAWNICZAK

UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,
Plaintiff,

v.

KEITH ALLEN LAWNICZAK,
Defendant.

Case No. 17-CR - 404(A)-AB-4

**DEFENSE SENTENCING
MEMORANDUM AND OBJECTIONS
TO THE PSR**

Sentencing Date: July 16, 2020

Defendant KEITH ALLEN LAWNICZAK, through counsel, hereby submits his Sentencing Memorandum and objections to the Presentence Report.

Defendant reserves the opportunity to make additional comments at the sentencing hearing in this matter.

Date: July 6, 2020

Respectfully submitted:

LAW OFFICES OF ROBERT M. BERNSTEIN

By /S/ Robert M. Bernstein
ROBERT M. BERNSTEIN
Attorney for Defendant
KEITH ALLEN LAWNICZAK

I.
INTRODUCTION

KEITH ALLEN LAWNICZAK has pleaded guilty to one count of an Information, a violation of conspiracy to commit sex trafficking of a minor, in violation of 18 U.S.C. §1594 (c).

The Defense agrees and concurs with the Government's sentencing recommendation in their position papers, that this Honorable Court should sentence Mr. Lawniczak pursuant to the plea agreement to a term of 108 months incarceration. However, the defense submits that 10 years of supervised release is effective enough of a time frame to prevent a risk of re-offending.

II.
GUIDELINE CALCULATION

Both the Government and the Defense agree to the Sentencing Guideline calculation as follows:

Base Offense Level:	U.S.S.G. §2G1.3(a)(4)	24
Specific Offense	U.S.S.G. §2G1.3(b)(4)(A)	+2
Characteristics:	U.S.S.G. §2G1.3(b)(5)(A)	+ 8
Obstruction:	U.S.S.G. §3C1.1	+2
Minor Role:	U.S.S.G. §3B1.2(a)	-2
Acceptance of Resp.:	U.S.S.G. §3E1.1(a),(b)	<u>-3</u>
Total Offense Level :		31

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III.

OBJECTIONS TO THE PSR

The defense objects to paragraphs 38 and 39 in the PSR where the Probation department states that the defendant should not receive a minor role reduction. Pursuant to the Plea Agreement and the specific facts in this case, Lawniczak is entitled to the minor role reduction under U.S.S.G. §3B1.2, Application note 3(C). Here, Lawniczak did not plan, organize, or exercise decision making authority in the commission of the criminal offense. Thus, the minor role reduction is appropriately applied.

Further, on page 1 of the PSR it states that the defendant was arrested in the Eastern District of CA on July 31, 2017. That is incorrect, he was in fact arrested on July 28, 2017.

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IV.

**PURSUANT TO 18 U.S.C. §3553, A SENTENCE OF 108 MONTHS INCARCERATION
ALONG WITH 10 YEARS OF SUPERVISED RELEASE IS SUFFICIENT AND NOT
GREATER THAN NECESSARY TO ACCOUNT FOR THE DEFENDANT'S CRIMINAL
CONDUCT.**

The agreed upon offense Level of 31 provides a sentencing range of 108 – 135 months. Both the Government and the defense agree that the defendant should be sentenced at the low end of this range - 108 months incarceration.

This Honorable Court must sentence Mr. Lawniczak to avoid disparities with other defendants convicted of similar offenses and with similar criminal records. 18 U.S.C. §3553(a)(6). In the present case, a sentence of 108 months will prevent such disparities in accordance with the relevant law.

Regarding a period of supervised release, the defense submits that a period of 10 years is sufficient to prevent a chance of re-offending and to protect the interests of society. This crime requires a period of supervised release ranging from 5 years to life. Currently, Mr. Lawniczak is 56 years old. Upon his release from incarceration, he will be in his late 60s. A period of supervised

1 release for 10 years following his release would place Mr. Lawniczak at close to 80 years old. The
2 defense submits that this period of supervised release is sufficient to serve its relevant purpose.

3
4 **V.**

5 **CONCLUSION**

6 Based on the aforementioned factors, the defense submits that a sentence of 108 months
7 incarceration with a period of supervised release of 10 years is appropriate. Such a sentence
8 would be “sufficient but not greater than necessary” to effectuate justice in this matter and would
9 fulfill the sentencing factors set forth at 18 U.S.C. §3553(a).

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11 Date: July 6, 2020

Respectfully submitted:

12 LAW OFFICES OF ROBERT M. BERNSTEIN

13 By /S/ Robert M. Bernstein
14 ROBERT M. BERNSTEIN
15 Attorney for Defendant
16 KEITH ALLEN LAWNICZAK
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